

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the matter of	)	
	)	
Implementation of Section 621(a)(1) of the Cable	)	
Communications Policy Act of 1984 as amended	)	MB Docket No. 05-311
by the Cable Television Consumer Protection and	)	
Competition Act of 1992	)	
	)	

COMMENTS OF  
CAPITAL COMMUNITY TELEVISION (CCTV) SALEM, OREGON  
IN RESPONSE TO THE FURTHER NOTICE  
OF PROPOSED RULEMAKING

Capital Community Television (CCTV) submits these comments in response to the Further Notice of Proposal Rulemaking, released March 5, 2007, in the above-captioned rulemaking ("Further Notice").

1.     **The City of Salem and Marion County** are the local franchising authorities for **for Comcast Cable operating in Salem, Oregon and adjacent areas of unincorporated Marion County** that are connected in this single cable system. **Capital Community Television** was formed by **Salem and Marion County to provide Public, Educational and Government (PEG) Access in this area**. CCTV currently provides three cable channels to 49,000 subscribers in this area. CCTV provides open government through live and repeat coverage of government meetings that are also streamed live and archived for permanent, 24-7 access. CCTV teaches media

education and production, including extensive Summer Camps to school students. CCTV also teaches members of the public and facilitates their production of programs. Comcast's franchise is due to expire January 26, 2010.

2. On behalf of our community, **Capital Community Television** supports and adopts the comments of the Alliance for Community Media, the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors, the National League of Cities, the National Association of Counties, and the U.S. Conference of Mayors, filed in response to the Further Notice.

3. We oppose the Further Notice's tentative conclusion (at ¶ 140) that the findings made in the FCC's March 5, 2007, Order in this proceeding should apply to incumbent cable operators, whether at the time of renewal of those operators' current franchises, or thereafter. This proceeding is based on Section 621(a)(1) of the Communications Act, 47 U.S.C. § 541(a)(1), and the rulings adopted in the Order are specifically, and entirely, directed at "facilitat[ing] and expedit[ing] entry of new cable competitors into the market for the delivery of video programming, and accelerat[ing] broadband deployment" (Order at ¶ 1). Our franchise with Comcast cable was freely and fairly negotiated. Comcast operates profitably and compensates our community as agreed for invaluable use of the public right-of-way as a convenience that allows Comcast to avoid house-to-house negotiations with homeowners for the right to place their cables.

4. We disagree with the rulings in the Order, both on the grounds that the FCC lacks the legal authority to adopt them and on the grounds that those rulings are unnecessary to promote competition, violate the Cable Act's goal of ensuring that a cable system is "responsive to the needs and interests of the local community," 47 U.S.C. § 521(2), and are in conflict with several other provisions of the Cable Act. But even assuming, for the sake of argument, that the rulings in the Order are valid, they cannot, and should not, be applied to incumbent cable operators. By its terms, the "unreasonable refusal" provisions of Section 621(a)(1) apply to "additional competitive franchise[s]," not to incumbent cable operators. Those operators are by definition already in the market, and their future franchise terms and conditions are governed by the franchise renewal provisions of Section 626 (47 U.S.C. § 546), and not Section 621(a)(1).

5. We strongly endorse the Further Notice's tentative conclusion (at para. 142) that Section 632(d)(2) (47 U.S.C. § 552(d)(2)) bars the FCC from "preempt[ing] state or local customer service laws that exceed the Commission's standards," and from "preventing LFAs and cable operators from agreeing to more stringent [customer service] standards" than the FCC's.

Respectfully submitted,

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